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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,724	01/03/2001	Masafumi Kitakaze	58777.000003	1212

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EXAMINER

MITRA, RITA

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/752,724	KITAKAZE, MASAFUMI	
	Examiner	Art Unit	
	Rita Mitra	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

Applicants' amendment and response to office action dated April 22, 2003, filed on October 22, 2003 is acknowledged. Claims 1-5 have been canceled. Claims 6-16 have been amended. New claims 11-16 have been added. Therefore, claims 6-16 are currently pending and are under examination.

Response to amendment and Remarks

The objection to New Matter is withdrawn in light of the remarks at page 5.

The rejection of claims 1-16 under 35 U.S.C. § 112, **first paragraph** is withdrawn in view of Applicants' amendment to specification.

The rejection of claims 11 and 12 under 35 U.S.C. § 112, **second paragraph** is withdrawn in view of Applicants' amendment to claims.

The rejection of claims 1-5 under 35 U.S.C. § 102 is moot because claims have been canceled.

Rejection under 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-16 are/remain rejected under 35 U.S.C. 102(b) as being anticipated by Takata et al. (Cardiovascular Research, 32, 286-293, 1996). Takata et al. teach a pharmaceutical composition that comprises an effective amount of synthetic alpha human ANP (atrial natriuretic peptide), which increases the level of cyclic guanosine monophosphate (cGMP), and has cardioprotective effects on myocardial ischemia and reperfusion injury (see abstract; page 287, col 1, lines 12-14 and 24-25; page 289, col 1, lines 35-39; Fig. 1 and Table 1).

Takata et al. also teach a method of cardioprotection (claim 6) of myocardial ischemia (claims 8) and reperfusion injury (7) by administering a composition comprising an effective

amount of synthetic alpha human ANP (atrial natriuretic peptide) (claim 6, 9 and 10), which increases the level of cyclic guanosine monophosphate (cGMP) (claim 6), and has cardioprotective effects on myocardial ischemia and reperfusion injury (claims 6, 7, 8), (see abstract; page 287, col 1, lines 12-14 and 24-25, col 2, lines 14-18; page 289, col 1, lines 35-39; Fig. 1 and Table 1). Therefore, Takata's method anticipates claims 6-10 of instant application. In response Applicants argue (page 7) that Takata et al. explicitly teaches away from treating an infarct region by instead disclosing and teaching methods of preventing the myocardial ischemic event from even occurring. However, arguments are not found persuasive because the instant claims recite "prophylaxis" which is the same as "prevention" described in Takata reference. Therefore rejection of claims 6-16 under 102 is maintained.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

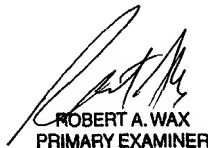
No claims are allowed.

Inquiries

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (703) 605-1211. The Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Christopher Low, can be reached at (703) 308-2923. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



Rita Mitra, Ph.D.
January 11, 2004


ROBERT A. WAX
PRIMARY EXAMINER